

Sixty-ninth
Legislative Assembly
of North Dakota

SENATE CONCURRENT RESOLUTION NO. 4021

Introduced by

Senator Gerhardt

1 A concurrent resolution urging the United States Federal Government, Congress, and the
2 Governor of North Dakota to end the disadvantaged business enterprise program.

3 **WHEREAS**, the President Donald J. Trump issued executive orders directing federal
4 agencies to align with the administration's policy to terminate diversity, equity, and inclusion
5 initiatives (DEI); and

6 **WHEREAS**, the orders directed that employment, procurement, and contracting practices of
7 federal contractors and subcontractors may not consider race or gender and further required
8 every federal contract or award to certify the recipient does not operate any programs
9 promoting diversity, equity, and inclusion which violate any applicable federal anti-discrimination
10 laws; and

11 **WHEREAS**, the Department of Government Efficiency (DOGE) has been tasked with
12 identifying inefficiencies within the federal government; and

13 **WHEREAS**, the United States Department of Transportation and the North Dakota
14 Department of Transportation administer the disadvantaged business enterprise program; and

15 **WHEREAS**, the disadvantaged business enterprise program (DBE) is a form of DEI; and

16 **WHEREAS**, the DBE program requirements are burdensome and often a deterrent for
17 contractors to bid federally funded projects; the requirements increase contractors' overhead
18 costs, reduce competitive bidding, and prevent general contractors from offering the lowest
19 possible bid, thus wasting taxpayer funds; and

20 **WHEREAS**, the increased costs due to the DBE program are not needed, do not add value,
21 and do not serve the taxpayer; and

22 **WHEREAS**, government construction contracts should be awarded based on the lowest
23 responsible bid, not based on the color of someone's skin, race, sex, or any other presumption
24 of social disadvantage; and

1 **WHEREAS**, the United States District Court for the Eastern District of Kentucky granted a
2 limited preliminary injunction against the United States Department of Transportation in the case
3 Mid-America Milling Co., LLC v. United States Department of Transportation and the court found
4 the race and gender-based rebuttable presumptions used in the DBE program violate the equal
5 protection clause of the 14th Amendment to the United States Constitution;

6 **NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE**
7 **HOUSE OF REPRESENTATIVES CONCURRING THEREIN:**

8 That the Sixty-ninth Legislative Assembly supports President Trump and his administration's
9 efforts to eliminate DEI policies from the federal government including the DBE program; and

10 **BE IT FURTHER RESOLVED**, that the Sixty-ninth Legislative Assembly encourages the
11 DOGE to take steps to eliminate the DBE program, and all other related DEI programs; and

12 **BE IT FURTHER RESOLVED**, that the Sixty-ninth Legislative Assembly encourages the
13 North Dakota Congressional Delegation to work to remove DEI initiatives, policies, and
14 requirements from funding to states; and

15 **BE IT FURTHER RESOLVED**, that the Sixty-ninth Legislative Assembly supports the
16 Governor of North Dakota ending the North Dakota Department of Transportation DBE program
17 as soon as allowed under federal law; and

18 **BE IT FURTHER RESOLVED**, that the Sixty-ninth Legislative Assembly supports the North
19 Dakota Attorney General taking any available legal action to assist in striking down DBE
20 program requirements and practices in the state; and

21 **BE IT FURTHER RESOLVED**, that the Secretary of State forward copies of this resolution
22 to each member of the North Dakota Congressional Delegation, the President of the United
23 States, the Governor of North Dakota, the Attorney General of North Dakota, and the
24 Administrator of the Department of Government Efficiency.